

REMARKS

Reconsideration of this application is requested.

Claims 6-10 have been amended to obviate the Examiner's objection thereto. New claims 12 and 13 are drawn to composition embodiments deleted from claims 6 and 7, respectively.

The allowance of claim 11 has been noted. Composition claim 1 and method claims 4 and 5 have been amended to stress novel and patentable aspects of the applicants' invention. As presented, all of the applicants' claims, including new claims 12 and 13, are thought to be allowable.

The Examiner is requested to reconsider the Section 102(b) rejection of claims 1 and 4-5 as anticipated by Giddey et al. U.S. 5,053,219. The reference does not disclose the applicants' composition or method as defined in claims 1, 4 and 5, particularly as these claims have been amended.

The Examiner is also requested to reconsider the Section 103(a) rejection of claims 2 and 3 as unpatentable over Giddey et al. The reference is not in any sense suggestive of the applicants' invention as defined in claims 2 and 3, as well as in claims 1, 4 and 5.

In rejecting claims 1, 4 and 5 as anticipated by Giddey et al., the Examiner expresses the view that Giddey et al. teach a cosmetic composition comprising yogurt or whey for the care of hair, namely, shampoo, hair lotion and dyes. However, the sole reference in Giddey et al. to yogurt is at Column 2, line 21 in the context of a discussion of prior art document DE 2623250. The DE document concerns cosmetic compositions, including shampoos, containing milk, possibly in the form of yogurt, as one of several options. There is no suggestion of anything special in the use of yogurt. Moreover, there is no reference in this portion of Giddey et al. or otherwise to non-oxidative dyes or the possibility of enhancing the colouring effects to be obtained therefrom by using yogurt with such dyes.

The Examiner has also referred to the disclosure at Column 2, lines 34 to 50 of Giddey et al. Again, this portion of Giddey et al. represents only a discussion of a prior art document, EP 0 046 326. This EP patent concerns cosmetic compositions applicable to the skin or hair including whey, and, according to Column 2, line 49 of Giddey et al., makes reference to hair dyes. However, here again, there is no specific reference in the EP disclosure to non-oxidative dyes and there is also no reference to yogurt. EP 0 046 326 concerns the use of whey products in hair care compositions. Suitable compositions are listed on page 15 with the list including

dyes and colourings and hair lighteners including bleaches, but there is no reference to non-oxidative hair colouring compositions. The whey is included to improve hair conditioning, etc., as discussed in the paragraph bridging pages 17 to 18. A copy of EP 0 046 326 is attached for the Examiner's possible ease of reference.

Giddey et al. are primarily concerned with cosmetic products, including milk-derived substances, including casein, as an alternative to milk to provide product stability (see Column 3, lines 47-61). Column 4, line 3 refers to applicability to products such as shampoos, while Column 3, line 68 refers back to the products listed in EP 0 046 326. While EP 0 046 326 makes reference to dyes, there is no reference therein to non-oxidative dyes, as noted above, whereas the applicants' invention is specifically directed to improving the colour effects obtained with non-oxidative dyes using yogurt or yogurt-derived material.

Thus, in short, there is no teaching in *Giddey et al.* U.S. 5,053,219 (or in DE 2623250 or EP 0 046 326) of the use of yogurt in a hair dye composition of any sort, let alone a non-oxidative composition. The most that can be said of the prior art is that it discloses possible use of yogurt in hair care products generally. In contrast, the applicants' invention is based on the surprising finding that yogurt has the effect of enhancing the colouring effects of non-oxidative dyes. This is not, in any sense, disclosed or suggested by *Giddey et al.* or the references mentioned therein.

In view of the foregoing, favorable reconsideration of the Section 102(b) and Section 103(a) rejections of applicants' claims 1, 4-5 or 2-3 is requested as *Giddey et al.* do not anticipate the applicants' invention or make it obvious.

Allowance of the application is thought to be in order and is respectfully requested.

Respectfully submitted,

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